

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

JOHN DAMON,

Petitioner,

v.

MICHAEL FLETCHER,

Respondent.

CV-18-09-GF-BMM-JTJ

**ORDER ADOPTING MAGISTRATE
JUDGE’S FINDINGS AND
RECOMMENDATIONS**

Petitioner John Damon filed a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on January 16, 2018. (Doc. 1.) United States Magistrate Judge John Johnston issued an Order and Findings and Recommendations in this matter on February 12, 2018. (Doc. 6.)

Judge Johnston recommended that the Court dismiss Damon’s petition for failure to exhaust his state remedies and lack of a cognizable federal claim. (Doc. 6 at 3-4.) Judge Johnston found that Damon had failed entirely to present the facts and federal legal theory to any state court as required by statute before filing of a federal writ of habeas corpus. (Doc. 6 at 3.) Judge Johnston found additionally that Damon’s claim—that he had not yet received an expected change in his

classification from “Department of Corrections Inmate” to “Montana State Prison Inmate”—failed to implicate any federal right or protected liberty interest. (Doc. 6 at 3-4.)

No party has filed objections. The Court has reviewed Judge Johnston’s Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston’s Findings and Recommendations, and adopts them in full.

I. ORDER

Accordingly, **IT IS ORDERED** that Magistrate Judge Johnston’s Findings and Recommendations (Doc. 6) is **ADOPTED IN FULL**.

Damon’s Petition (Doc. 1) is **DISMISSED** as unexhausted and lacking in merit.

The Clerk of Court is directed to enter, by separate document, a judgement in favor of Respondents and against Petitioner.

A certificate of appealability is **DENIED**.

DATED this 13th day of March, 2018.



Brian Morris
United States District Court Judge